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AUG - 3 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

PLEASE REPLY TO

JOHN M. PELKEY

WASHINGTON, DC OFFICE

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August 3, 2001

Magalie R. Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TW-A325  
Washington, DC 20554

RE: MM Docket No. 245 00-245/  
RM-9971  
RM-10185  
RM-10186

Dear Ms. Salas:

Transmitted herewith on behalf of MainQuad Broadcasting, Inc., are an original and four copies of the Reply Comments of MainQuad Broadcasting, Inc., to be filed in the above-referenced proceeding. These Reply Comments are filed in response to Public Notice Report No. 2496, released July 19, 2001.

If there are any questions concerning this submission, please contact the undersigned directly.

Sincerely,

  
John M. Pelkey

JMP/ajc

Enclosures

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Washington, D.C. 20554

AUG 3 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

MM Docket No. 00-245

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<sup>1</sup> No information is provided in either of the counterproposals concerning the principals involved in the entities which operate under the fictitious names of “Dinwiddie Radio Company” or “Garysburg Radio”. Neither entity is listed in the Commission’s CDBS database as being a broadcast licensee.

Channel 276C3 for Channel 276A at Alberta, Virginia, to reallocate Channel 276C3 from Alberta, Virginia, to Whitakers, North Carolina, and to modify the license of WAQD(FM), which now operates under the call sign of WSMY-FM, to specify Whitakers, North Carolina, as that station's community of license. The *NPRM* also proposed to allot Channel 299A to Alberta, Virginia, as a replacement for Channel 276.

On January 29, 2001, MainQuad filed Comments in response to the *NPRM* in which it supported the Commission's proposal and reaffirmed its commitment to apply for, and promptly construct upon grant, (1) modified facilities for WSMY-FM that would provide the requisite coverage of Whitakers and (2) new facilities on Channel 299A at Alberta. On that same day, Dinwiddie Radio Company filed a counterproposal to the Commission's proposal in which it proposed that Channel 299A be allocated to Dinwiddie, Virginia, rather than Alberta, Virginia, and that Whitakers be left without any local transmission service. Also on that day, Garysburg Radio filed a counterproposal in which it urged that Channel 299A be substituted for Channel 276A at Alberta and that Channel 276A be allotted to Garysburg, North Carolina. Garysburg Radio also proposed that Whitakers be left without any local transmission service.

In its Reply Comments filed on February 13, 2001, MainQuad pointed out that the Dinwiddie proposal was technically deficient inasmuch as it failed to demonstrate that the proposed allocation would result in city-grade coverage being provided to Dinwiddie and was substantively inferior to the *NPRM*'s proposal inasmuch as it proposed first local service to 109 fewer people and reception service to 128,760 fewer people.

MainQuad's Reply Comments also explained that, because the *NPRM* proposal would provide reception service to 113,860 more people than would the Garysburg Radio proposal, Garysburg Radio's proposed first local service to 197 more people than the *NPRM* proposal was *de minimis*. In support of its position, MainQuad relied on *Seabrook, Huntsville, Bryan, Victoria, Kennedy and George West, Texas*, 10 FCC Rcd. 9360 (1995) in which the Commission found that the provision of second full-time aural service to 455 persons was *de minimis* compared to the provision of additional service to 122,356 persons. The provision of second full-time aural service is given the same weight as the provision of first local service under the Commission's allocations priorities.<sup>2</sup>

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<sup>2</sup> See, e.g., *Sparta and Buckhead, Georgia*, 16 FCC Rcd. 2169 at n.1 (2001).

## II. MainQuad's Reply.

Rather than further burdening the record in this proceeding, MainQuad hereby incorporates by reference its February 13, 2001, Reply Comments and requests that they be treated as being submitted in response to the Commission's July 19, 2001, Public Notice inviting the submission of Reply Comments with respect to the Dinwiddie Radio Company and Garysburg Radio counterproposals.

MainQuad wishes to draw the Commission's attention to certain recent developments, however.

First, the Commission has reaffirmed that it will not blindly apply its allocation priorities, but will use the common sense based *de minimis* concept in making allocation determinations. Thus, in *Sparta and Buckhead, Georgia*,<sup>3</sup> the Chief, Allocations Branch, relied upon *Seabrook, Huntsville, Bryan, Victoria, Kennedy and George West, Texas* which is the very case cited by MainQuad in its Reply Comments, to hold that the creation of a gray area<sup>4</sup> with a population of 114 persons was *de minimis* when compared to the proposal's overall population gain, the elimination of another gray area and the establishment of local service to

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<sup>3</sup> *Sparta and Buckhead, Georgia*, 16 FCC Rcd. 2169 (2001).

<sup>4</sup> The creation of a gray area falls within FM allotment Priority 2 and is given co-equal weight with the creation of a first local service.

a new community. Thus, the *de minimis* concept is alive and well and its use in *Sparta and Buckhead, Georgia*, in the case of 114 persons, compels its application in the present case where only 197 additional people would receive first local service.

Second, the Mayor of Whitakers, North Carolina, is today filing a letter with the Commission in which he supports the allocation of a new channel to his community. As the Mayor explains in his letter, a copy of which is attached, Whitakers currently is underserved by radio. Residents are forced to rely on stations in distant communities such as Rocky Mount and Raleigh for news and public announcements. Allocation of a station to Whitakers would eliminate this reliance on out-of-town service and would "be of great value to Town Hall" inasmuch as it would aid the Mayor's efforts "to increase public knowledge and awareness of town affairs and/or concerns" and would allow the town to reach its citizens in a more timely manner in the event of a natural disaster. Both the Dinwiddie Radio Company and Garysburg Radio counterproposals would deprive Whitakers of this radio service.

Finally, in contrast to the Mayor of Whitakers, the Mayor of Alberta is today filing a letter, a copy of which is attached, in which she explains that Alberta is already adequately served by radio stations and

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that her primary concern is not whether Alberta receives an allocation. Instead, her wish is to have Channel 276 reallocated out of Alberta. Her concern in this regard is driven by the fact that the town's residents have been having problems in receiving television channel 12 from Richmond as the result of the radio station operations on Channel 276.

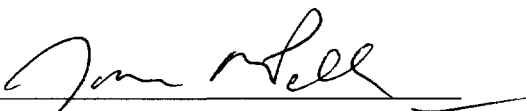
As was reported by MainQuad in its February 13, 2001, Reply Comments,<sup>5</sup> MainQuad was forced to cease operating WSMY-FM almost immediately after it commenced program tests because of the receipt of complaints of interference to television channel 12. Channel 12, which is located approximately 55 miles from Alberta, operates on the second harmonic of WSMY-FM's channel. MainQuad worked with Channel 12's engineer, who traveled to Alberta, to try to isolate the source of the problem. Testing of WSMY-FM's transmission facilities indicated that WSMY-FM was operating in compliance with the Commission's rules and applicable technical standards. Bolstered by these results, MainQuad recommenced operation of WSMY-FM on July 23, 2001. Once again, however, the complaints started almost immediately and the Mayor made it clear to MainQuad that she would prefer the station to go off the air. As a result of this request, MainQuad took the station silent on August 1, 2001.

Although MainQuad will continue to investigate alternative methods for eliminating the interference, it now appears undisputedly true that the interference stems from the viewers' use of antenna boosters. Unfortunately, Alberta's residents must use these boosters in order to receive television signals given Alberta's distance from any television stations. With the boosters, Alberta residents can receive television stations, but MainQuad cannot operate WSMY-FM; without the boosters, MainQuad can operate WSMY-FM, but Alberta's residents lose their ability to receive television stations that they have watched for many years. As a result, MainQuad finds itself in a position where, due solely to its allocated channel and not to any fault of its own, it has taken WSMY-FM silent (heeding the advice of the Mayor) rather than angering the community it is licensed to serve -- with the result that Alberta's residents currently are not receiving the service contemplated by the Table of Allotments.

The record in this proceeding evidences that the public interest would be best served by the adoption of the proposal set forth in the *NPRM*. Accordingly, that proposal, representing as it does a superior arrangement of FM allotments, should be adopted.

Respectfully submitted,

MainQuad Broadcasting, Inc.

By:   
John M. Pelkey  
Its Attorneys

GARVEY, SCHUBERT & BARER  
5<sup>th</sup> Floor, 1000 Potomac Street, N.W.  
Washington, DC 20007

202/965-7880

Date: August 3, 2001



MM Docket No. 00-245

RM - 10185

RM - 10186

Town of Whitakers

Jesse Wright, Jr. - Mayor  
Telephone 437-4011

Post Office Box 727  
North Carolina 27891

July 26, 2001

Mrs. Marglie Salas  
Secretary of Federal Communications Commission  
Washington, DC 20554

Subject: Radio Station

Dear Mrs. Salas:

As Mayor of the Town of Whitakers, I would like to take this opportunity to say that, in my opinion, I feel that a radio station located here in our Town would be welcomed. As it is now, we rely mainly on Rocky Mount and Raleigh stations for our news and public announcements.

In my opinion, a locally operated station would not only provide a service to our local merchants, but would also be of great value to Town Hall. Local radio announcements would aid in our efforts to increase public knowledge and awareness of town affairs and/or concerns, not to mention the ability to reach our citizens in a more timely matter during the event of natural disasters.

I look forward to discussing this possibility further.

Sincerely,

Mayor Jesse Wright, Jr.

MJW/jb

# TOWN OF ALBERTA

P.O. BOX 157

ALBERTA, VIRGINIA 23821

PHONE (804) 949-7443

August 1, 2001

Magalie R. Salas, Secretary  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

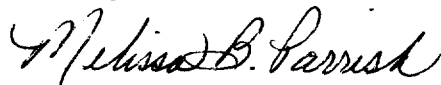
Re: MM Docket No.00-245  
RM-10185  
RM-10186

Dear Ms. Salas:

It has come to my attention that MainQuad Broadcasting, Inc., which is the licensee of WSMY-FM, has asked the Federal Communications Commissions to make Whitakers, North Carolina, the official community of license of that station. WSMY-FM operates on 103.1 MHz. Main Quad has also asked the FCC to create a new allocation that would permit the establishment of a station operating in Alberta on 107.7 MHz.

I am writing to let the FCC know that, as Mayor of Alberta, I support MainQuad's request. MainQuad has now twice attempted to operate WSMY-FM, but each time the operation of WSMY-FM on 103.1 MHz caused interference to the residents' reception of WWBT, a Richmond television station that operates on channel 12. Even though Richmond is approximately 55 miles from Alberta, channel 12 in Richmond is the closest television station that carries NBC programming, and our citizens have been watching channel 12 for a number of years. Although many of Alberta's citizens have no other source of NBC programming, they do receive ample radio service from other stations and, as a result, on balance, it would be preferable for our residents to be able to continue to receive channel 12 than to be able to listen to yet another radio station. I understand from discussions that I have had with MainQuad that the interference problem may be eliminated if the Alberta radio station operates on 107.7 MHz rather than 103.1 MHz. If that indeed is the case, I would welcome the allocation of a station to Alberta that would operate on 107.7 MHz. That is a secondary concern, however. My principal goal in writing this letter is to support the relocation of WSMY-FM to Whitakers.

Sincerely,



Melissa B. Parrish, Mayor

MBP

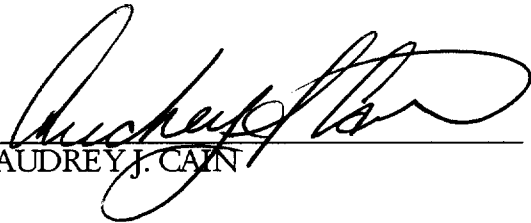
## CERTIFICATE OF SERVICE

I, Audrey J. Cain, an employee of Garvey, Schubert & Barer, hereby certifies that the foregoing document was mailed this date by First Class U.S. Mail, postage prepaid, to the following:

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(Counsel for Garysburg Radio)

John D. Poutasse, Esq.  
Leventhal, Senter & Lerman P.L.L.C  
2000 K Street, NW, Suite 600  
Washington, DC 20006-1809  
(Counsel for Dinwiddie Radio Company)

R. Barthen Gorman  
Federal Communications Commission  
Mass Media Bureau  
445 12<sup>th</sup> Street, SW, Room 3-A224  
Washington, DC 20554



AUDREY J. CAIN

August 3, 2001